

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE CITY OF BLAINE, *et al.*,

Plaintiffs,

v.

GOLDER ASSOCIATES, INC., *et al.*,

Defendants.

No. C03-0813L

ORDER GRANTING PLAINTIFFS'
MOTION IN LIMINE REGARDING
WAIVER

This matter comes before the Court on "Plaintiffs' Motion in Limine Regarding the City of Blaine's Alleged Waiver of Performance of the Terms of the Memorandum of Agreement." Dkt. # 214. Plaintiffs seek to preclude defendants from presenting evidence or arguments that the City of Blaine waived the notification and consultation requirements set forth in the Memorandum of Agreement and treatment plan. Defendants did not assert either waiver or modification as a defense to plaintiffs' breach of contract claim. Defendants will not, therefore, be permitted to argue that the City's alleged approval of defendants' notification efforts and transportation plans waived or modified any provisions of the Professional Services Agreement or the Memorandum of Agreement.

For all of the foregoing reasons, plaintiffs' motion in limine regarding waiver is GRANTED.

ORDER GRANTING PLAINTIFFS' MOTION IN
LIMINE REGARDING WAIVER

1 DATED this 21st day of September, 2005.

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4 Robert S. Lasnik
5 United States District Judge
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